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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/562,316	04/25/2006	David Guyard	113035-00134	5808
27557	7590	04/14/2008		
BLANK ROME LLP 600 NEW HAMPSHIRE AVENUE, N.W. WASHINGTON, DC 20037			EXAMINER LINDSEY, MATTHEW S	
			ART UNIT 2151	PAPER NUMBER
			MAIL DATE 04/14/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/562,316	<b>Applicant(s)</b> GUYARD ET AL.	
	<b>Examiner</b> MATTHEW S. LINDSEY	<b>Art Unit</b> 2151	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 12/23/2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 December 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \*    c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>4/25/2006</u> .   | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

1. Claims 1-11 are pending in this application. Claims 1-11 have been amended as filed on 12/23/2005.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. **Claims 1-4, and 6-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shimada (US 2002/0052957) in view of Chang et al. (US 6,134,584), hereinafter Chang, further in view of Feigenbaum (US 6,377,974), and in further view of Halonen (US 5,887,254).**

4. With respect to Claim 1, Shimada discloses: "Method for downloading a digital file ([0032], lines 3-5), by a user, from a content server to a mobile terminal (Fig 2, object 22, and [0033], lines 9-13, where a mobile phone connects to the server through wireless communication) via a mobile telecommunication network ([0033], lines 9-13, where a mobile phone uses wireless communication to establish a connection with the

server), including the following steps: connection of the mobile terminal to the server via the network ([0033], lines 9-13, where the mobile phone establishes wireless communication with the server); downloading of the file from the server to the terminal ([0037], lines 1-2) in encrypted form ([0105], lines 1-3)", and "presentation of the file to the user at the end of the downloading operation ([0113], lines 1-6); characterized in that: it also comprises, before the connection step, a step of verifying that the current time falls within a predetermined time slot ([0037], lines 1-3, where downloading contents according to a schedule implicitly means verifying that current time falls within a predetermined time slot before downloading begins); the acceptance of the content by the user after presentation of the file after downloading triggers: the sending of an acceptance data item from the terminal to the server ([0108], lines 6-11, where the user selects content as relevant and pays the charge therefore, which is the sending of an acceptance from the terminal to the server); the sending in return, from the server to the terminal, of a decryption data item enabling the terminal to decipher and read the downloaded file ([0108], lines 8-15, where the public key given to the user by the system administrator enables the program and data to become reproducible, and therefore readable and deciphered)".

Shimada does not disclose: "in a background task", or "it implements mechanisms for managing download interruptions, which mechanisms enable partial versions of the file to be saved on the terminal and, subsequently, only the missing portion of the file to be downloaded in the event of an interruption; it monitors the

bandwidth in real time and, as necessary, causes the downloading to be temporarily suspended”.

However, Chang discloses: “it implements mechanisms for managing download interruptions (Col. 6, lines 47-51)”, and “it monitors the bandwidth in real time (Col. 6, lines 47-51, where the downloading is interrupted if the downloading time exceeds the users earlier input, which implicitly means the bandwidth is monitored to calculate download time) and, as necessary, causes the downloading to be temporarily suspended (Col. 6, lines 47-51, where the downloading is interrupted if the downloading time exceeds the users earlier input)”.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the content distribution system of Shimada with the teachings of Chang to include support for partial downloading and download interruption based on network congestion. Motivation to combine these comes from Chang, where “Other advantages of this invention include the abilities of allowing the user to schedule data download from those web sites requiring an user id and password, and to specifying the upper limits on the download time and the allocated storage space for downloaded data.” (Col. 6, lines 62-67). Therefore by combining the content distribution system of Shimada with the teachings of Chang, one can specify upper limits on the download time and the allocated storage space for downloaded data.

The combination of Shimada and Chang do not disclose: “in a background task”, or “which mechanisms enable partial versions of the file to be saved on the terminal and, subsequently, only the missing portion of the file to be downloaded in the event of an interruption”.

However, Feigenbaum discloses: “which mechanisms enable partial versions of the file to be saved on the terminal (Col. 1, lines 20-30, where the download is interrupted and subsequently continued from the point at which the download stopped, implicitly this includes storing the partially complete download on the terminal) and, subsequently, only the missing portion of the file to be downloaded in the event of an interruption (Col. 1, lines 27-30, where the download is continued from the point at which the download stopped)”.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the content distribution system of Shimada in view of Chang with the teachings of Feigenbaum to include support for resuming downloads. Motivation to combine these comes from Feigenbaum, where: “Recent developments in file transfer protocols include the server’s ability to begin downloading a file from a point other than the start of the file” (Col. 1, lines 20-20-22). Therefore by combining the content distribution system of Shimada in view of Chang with the teachings of Feigenbaum, one can start a download from a point other than the start of the file, enabling downloading to occur in multiple sessions, such that the download can be interrupted and subsequently the download can start at an offset to the start of the file.

The combination of Shimada, Chang and Feigenbaum do not disclose: “in a background task”.

However, Halonen discloses: “in a background task (Col. 5, lines 54-57, where code blocks can be transmitted to the mobile terminal even during an ongoing voice call, as a background task)”.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the content distribution system of Shimada in view of Chang and Feigenbaum with the teachings of Halonen to include support for downloading as a background task. Motivation to combine these references comes from Halonen, where: “It can be appreciated that during a program download the mobile terminal 10 can remain registered with the network, can continue to make and receive calls, can send and receive messages, and can otherwise operate in a normal fashion.” (Col 5, lines 47-50). Therefore by combining the references, one can continue normal operation and even make and receive calls without interrupting the download.

5. With respect to Claim 2, the combination of Shimada, Chang, Feigenbaum and Halonen disclose: “Method for downloading a digital file from a content server to a mobile terminal according to claim 1, characterized in that the predetermined time slot corresponds to low general traffic on the network (Shimada, [0008], lines 1-4, where a download schedule is maintained to prevent network congestion, meaning the predetermined time for downloading will occur at a time when the network is not congested, or has low general traffic)”.

6. With respect to Claim 3, the combination of Shimada, Chang, Feigenbaum and Halonen disclose: "Method for downloading a digital file from a content server to a mobile terminal according to claim 1, characterized in that the predetermined time slot corresponds to low data traffic on the network (Shimada, [0008], lines 1-4, where a download schedule is maintained to prevent network congestion, meaning the predetermined time for downloading will occur at a time when the network is not congested, or has low data traffic)".

7. With respect to Claim 4, the combination of Shimada, Chang, Feigenbaum and Halonen disclose: "Method for downloading a digital file from a content server to a mobile terminal according to claim 1, characterized in that the acceptance of the content by the user after presentation of the file following downloading also triggers the billing for the download by the server (Shimada, [0108], lines 8-11, where the user considers downloaded content necessary and pays a charge in order to access it)".

8. With respect to Claim 6, the combination of Shimada, Chang, Feigenbaum and Halonen disclose: "Method for downloading a digital file from a content server to a mobile terminal according to claim 1, characterized in that the mobile terminal is a mobile telephone (Shimada, [0033], lines 9-13, specifically a mobile phone establishes wireless communication with the server)".

9. With respect to Claim 7, the combination of Shimada, Chang, Feigenbaum and Halonen disclose: "Method for downloading a digital file from a content server to a mobile terminal according to claim 1, characterized in that the mobile terminal is a personal digital assistant (Chang, Col. 1, lines 33-38, specifically where the large availability of PDAs will make efficient technologies to access web pages even more desirable)".

10. With respect to Claim 8, the combination of Shimada, Chang, Feigenbaum and Halonen disclose: "Method for downloading a digital file from a content server to a mobile terminal according to claim 1, characterized in that the updating of the predetermined time slots on the terminal is carried out by means of a connection to the server (Shimada, [0052], lines 1-4)".

11. With respect to Claim 9, the combination of Shimada, Chang, Feigenbaum and Halonen disclose: "Method for downloading a digital file from a content server to a mobile terminal according to claim 1, characterized in that a download suspension is triggered if the bandwidth goes below a predetermined threshold (Chang, Col. 6, lines 47-51, where the downloading is interrupted if the downloading time exceeds a users earlier input, and downloading time is dependent on bandwidth)".

12. With respect to Claim 10, the combination of Shimada, Chang, Feigenbaum and Halonen disclose: "Method for downloading a digital file from a content server to a

mobile terminal according to claim 1, characterized in that an attempt to restart the downloading operation is triggered after a predetermined time has passed from the time at which the temporary download suspension was triggered (Chang, Col. 6, lines 52-56)".

13. With respect to Claim 11, the combination of Shimada, Chang, Feigenbaum and Halonen disclose: "System for implementing the method according to claim 1 including at least one content server and a mobile terminal mutually connected via a mobile telecommunication network (Shimada, [0033], lines 9-13, where a mobile phone connects to a server over a wireless network)".

**14. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over the combination of Shimada, Chang, Feigenbaum, and Halonen as applied to Claim 1 above, and further in view of Trossen et al. (US 2004/0111476), herein after Trossen.**

15. With respect to Claim 5, the combination of Shimada, Chang, Feigenbaum and Halonen do not disclose: "Method for downloading a digital file from a content server to a mobile terminal according to claim 1, characterized in that the mobile telecommunication network is second or third generation".

However, Trossen discloses: "Method for downloading a digital file from a content server to a mobile terminal according to claim 1, characterized in that the mobile

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telecommunication network is second ([0022], lines 7-9, specifically “a second generation (2G) mobile telecommunications network”) or third generation ([0022], lines 11-12, specifically “a third generation (3G) mobile telecommunications network”).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the content distribution system of Shimada in view of Chang Feigenbaum and Halonen with the teachings of Trossen to include support for second and third generation mobile telecommunication networks. Motivation to combine these comes from the widespread use and availability of second and third generation mobile telecommunication networks. Therefore by combining the content distribution system of Shimada in view of Chang, Feigenbaum and Halonen with the teachings of Trossen, one can start employ the system in a network that has widespread use and availability.

***Conclusion***

16. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

- a. Hori et al. (US 6792280) teaches information delivery where a user can specify time and device of information delivery.
- b. Emens et al. (US 6934735) teaches scheduled downloading.
- c. Miller et al. (US 5920701) teaches transmission of files over a network according to a schedule.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MATTHEW S. LINDSEY whose telephone number is (571)270-3811. The examiner can normally be reached on Mon-Thurs 7:30-5, Fridays 7:30-1.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Follansbee can be reached on (571) 272-3964. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MSL

4/10/2008

/John Follansbee/

Supervisory Patent Examiner, Art Unit 2151